



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

June 30, 1947

Hon. J. E. McDonald
Commissioner of Agriculture
Department of Agriculture
Austin, Texas

Opinion No. V-289

Re: Duty of Compensation Claims Boards
to conduct hearings
under the Texas
Pink Bollworm Law.

Dear Sir:

We refer to your letter of May 24, 1947, in which you submit the following:

"Mr. O. R. Armstrong of Cotulla, Texas, has submitted to us his claim for compensation in complying with the Pink Bollworm regulations, which required the cotton stalks on 87 acres of cotton in La Salle County to be plowed under and the fields cleaned by October 15, 1945.

"Mr. Armstrong has requested that the Pink Bollworm Compensation Claim Board be called into executive session to adjudicate his claim.

"La Salle County was placed in a Pink Bollworm regulated area by Governor's Proclamation No. 1195 on March 5, 1940, and we are attaching a copy of the clean-up regulations for La Salle County which became effective March 12, 1945, and required that all fields be cleaned by midnight of October 15, 1945.

"We would appreciate an opinion from you as to whether or not it is a duty of the Pink Bollworm Compensation Claim Board to meet and adjudicate the claim of Mr. Armstrong for his compliance with the Pink Bollworm regulations which were in effect when he planted his cotton, and with which all other cotton farmers in the regulated area were required to comply."

You have indicated verbally that your chief concern is whether the provisions for compensation, and the functions of the Board, apply to a situation

where the growing of cotton is subject to mere restrictions or regulations as distinguished from a situation where the growing of cotton is completely prohibited or a crop is ordered completely destroyed in furtherance of the purposes of the Texas Pink Bollworm Law.

Article 74 of Vernon's Civil Statutes, reads, in part:

"In the event of the establishment of any non-cotton zone authorized by this Chapter, all persons prevented from producing cotton in the non-cotton zones shall be entitled to receive compensation from the State in the measure of the actual and necessary losses sustained thereby. In all regulated or restricted areas now established or that may be hereafter established, all persons, firms, or corporations required to comply with said regulation or restrictions imposed upon them by law or any constituted authority shall be entitled to receive compensation for the actual losses sustained and for all actual expenses incurred by reason of said restrictions or regulations." (Emphasis supplied)

Article 75 of said statutes provides in part:

"The Governor shall appoint a compensation Claims Board for the State, who shall serve until relieved therefrom by the Governor, whose duty it shall be to determine in the manner herein provided the measure of compensation due persons prevented from growing cotton and the damages sustained by persons having cotton condemned and destroyed as provided herein, and losses sustained or expenses incurred by all persons, firms or corporations in such regulated or restricted areas. . . . The Compensation Claims Board shall conduct a public hearing in the county or counties from which the claims for compensation have been filed." (Emphasis supplied)

Under the facts stated in your letter we are of the opinion that the Compensation Claims Board should file and conduct a hearing on the claim of Mr. Armstrong and make such decision concerning it as will accord with the facts developed in such hearing.

The law clearly contemplates consideration by the Board of claims arising in restricted and

regulated areas as well as in areas where crops are entirely prohibited or ordered destroyed.

SUMMARY

The Texas Pink Bollworm Law (Articles 68-82, V. C. S.) contemplates compensation for loss and expense suffered by farmers in restricted and regulated areas, and the Pink Bollworm Compensation Claim Board should meet and adjudicate any claim for such loss and expense.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

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APPROVED:

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